

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ELIZABETH DE COSTER *et al.*, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

AMAZON.COM, INC., a Delaware
corporation,

Defendant.

No. 2:21-cv-00693-RSM

**STIPULATED MOTION AND
[PROPOSED] ORDER REGARDING
MODIFIED CLASS CERTIFICATION
BRIEFING SCHEDULE**

**NOTE ON MOTION CALENDAR:
September 5, 2023**

STIPULATED MOTION AND [PROPOSED] ORDER
REGARDING MODIFIED CLASS CERTIFICATION
BRIEFING SCHEDULE
Case No. 2:21-cv-00693-RSM

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The Parties, by and through their counsel, stipulate and agree as follows:

1. The Parties agree good cause justifies an extension of the Court's current class certification briefing schedule to provide Plaintiffs with sufficient time to prepare their papers following Amazon's largely forthcoming production of voluminous structured data. As described in greater detail below, the Parties have acted diligently and in good faith to advance discovery in preparation for class certification and propose modifying the schedule as follows:

	Current Schedule (ECF 61)	Proposed Scheduled
Deadline for Plaintiffs to file motion for class certification	October 30, 2023	March 7, 2024
Opposition to Motion to Certify Class	January 12, 2024	June 7, 2024
Reply in Support of Motion to Certify Class	March 12, 2024	August 7, 2024
Hearing on Motion to Certify Class	To be set by the Court after briefing completed	To be set by the Court after briefing completed

2. Plaintiffs served Amazon with requests for large amounts of structured data; Plaintiffs believe these data are critically important for their expert's analysis of the impact and damages of alleged restraints (including the former Parity Provision and the Marketplace Fair Pricing Policy) for their class certification motion. Given Plaintiffs' understandable unfamiliarity with the content and structure of Amazon's internal data, Plaintiffs' requests did not match the data as it existed. After Amazon served its Responses and Objections, over an eight-month period, the Parties met and conferred at least a dozen times and exchanged nearly one hundred letters and emails regarding Amazon's production of structured data. This process was collaborative, iterative, and aimed at identifying existing Amazon data that Plaintiffs believe would facilitate their intended analyses.

3. By mid-July 2023, the Parties agreed on the parameters of Amazon's production of all but one of the structured data sets to be produced except for two fields that Amazon is investigating (the "agreed-to data sets"). Regarding the remaining data set, the Parties subsequently agreed in principle on the data to be produced, but continue to investigate and

1 discuss the specific fields and the date range of that production. As before, the Parties are
2 committed to working with each other in good faith to resolve these questions.

3 4. Because of the complexity and size of the data sets, massive amounts of computer
4 processing power are necessary for the custom-built queries to process the data. Amazon is now
5 querying and producing the agreed-to data sets and has already produced one of the data sets
6 Plaintiffs requested.¹ Amazon currently estimates that it will take until the end of October 2023
7 for the queries to run to completion for the agreed-to data sets, although that estimate is subject
8 to a margin of error due to computing processing times. As the agreed-to data sets are ready for
9 production, Amazon will produce them to Plaintiffs on a rolling basis. As to the remaining data
10 set the Parties are continuing to investigate and discuss, the Parties do not currently have an
11 estimated date of production, but expect the production of that data set to proceed expeditiously
12 once the agreed-to data sets have been produced.

13 5. Because the agreed-to data sets are not expected to be produced until close to the
14 current deadline for Plaintiffs' class certification motion, the Parties request an extension of
15 about four months to the Parties' class certification deadlines, as reflected in the above chart.

16 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the Parties,
17 through their undersigned counsel of record, and the Parties ask the Court to order, that:

18 1. The deadline for Plaintiffs to file their class certification motion is extended to
19 March 7, 2024.

20 2. The deadline for Amazon to respond to Plaintiffs' motion is June 7, 2024.

21 3. The deadline for Plaintiffs' reply brief is August 7, 2024.

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26 ¹ As an interim measure—so that Plaintiffs could begin some amount of data work while awaiting Amazon's
27 data productions—Amazon agreed to produce several pre-existing data sets. Those transfers were completed by
August 16, 2023.

IT IS SO STIPULATED.

DATED: September 5, 2023

HAGENS BERMAN SOBOL SHAPIRO LLP

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[PROPOSED] ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Dated: _____

The Honorable Ricardo S. Martinez
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2023, a true and correct copy of the foregoing was filed electronically by CM/ECF, which caused notice to be sent to all counsel of record.

/s/ Steve W. Berman

Steve W. Berman